

The 16th April, 1986

No. 9/8/86-6Lab./2913.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Gandhi Metal Works, Rewari, District Mohindergarh.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,  
FARIDABAD

Reference No. 166 of 1985

between

SHRI MEER SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF  
M/S GANDHI METAL WORKS, REWARI, DISTRICT MOHINDERGRAH.

Present :—

Shri Rishi Parkash, for the workman.

Shri M. P. Gupta, for the respondent-management.

#### AWARD

This industrial dispute between the workman Shri Meer Singh and the respondent-management of M/s Gandhi Metal Works, Rewari has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/11-85/10496—501, dated 15th March, 1985 under section 10(1)(c) of the Industrial Disputes Act, 1947, for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Meer Singh was justified and in order ? If not, to what relief is he entitled ?

According to the demand notice, the workman was employed with the respondent-management on 26th September, 1980. A theft case was not registered against the workman in the police station, Sadar Rewari on 14th July, 1982. He was harassed by the police for many a days. When he was left by the police, he came to join duty but he was not taken back on duty. It is again stated in the claim statement that since 14th July, 1984, the workman continuously went on duty but he was not taken back on duty.

This has been contested by the respondent-management. It is alleged that the workman remained absent without any leave or intimation. It is further alleged that he joined duty only on 1st May, 1984 on temporary basis. He was continuously absented from duty from 14th July, 1984. Hence he has abandoned his job.

The reference was contested on the following issues:—

1. Whether the workman abandoned his job by absenting himself ?
2. As per reference?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues are as under:—

Issue No. 1&2:

The management has examined Shri P. K. Mukkarji as MW-1. He has stated that the workman was employed on 1st May, 1984 as helper. A theft took place in the factory and case was registered. The workman did not turn up on duty from 14th July, 1984. He has also produced photo copies of the attendance register. This is Ex M-2. Letters were also written to the workman to join duty. Ex. M-4 was sent through UPC. Photo copy of the UPC is Ex. M-5. It was sent on 24th July, 1984.

As against this evidence the workman appeared as MW-1. He has stated that he was working with the respondent-management since 26th September, 1980. He has further alleged that he was taken away by the police and was left on the next day. Whereas in his demand notice he has stated that he was harassed by the police for many a days, and then he went to join duty. It therefore,

clearly shows that the workman himself did not turn up for duty due to fear of a theft case. The workman has not documentary evidence to prove that he was appointed on 26th September, 1980. According to evidence of the management he has not completed 240 days of service within year. Hence his services could be terminated. It is contended that the workman remained absent for more than 10 days. Hence he is deemed to have left the service of the respondent according to rule 17 of the Model Standing order. Taking into consideration that it has been admitted by MW-1 Shri P. K. Mukkarji that the claimant was appointed on 1st May, 1984. The workman was an employee of the contractor Shri Chand Singh who was contractor in the respondent company and also taking into consideration that the workman could not join duty due to fear of the theft case and that 1½ months wages were due to him, I award compensation of Rs. 2,000.00 to him under section 11-A of the Industrial Disputes Act, 1947. The award is given accordingly.

R. N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.

Dated the 18th February, 1986.

Endorsement No. 815, dated the 18th March, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes, Act.

R. N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.

The 15th April, 1986

No. 9/8/86-6Lab./2915.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Continental Refractories, Plot No. 42, Sector 25, Faridabad.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,  
FARIDABAD

Reference No. 219 of 1984

between

SHRI SIRI RAM, WORKMAN AND THE RESPONDENT-MANAGEMENT OF  
M/S. CONTINENTAL REFRACTORIES, PLOT NO. 42, SECTOR 25,  
FARIDABAD

Present:

Shri Chaman Lal Oberai, for the workman.

Shri Jagbir Bhadana, for the respondent-management.

#### AWARD

This industrial dispute between the workman Shri Siri Ram and the respondent-management of M/s. Continental Refractories, Plot No. 42, Sector 25, Faridabad has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/23/84/27682—87, dated 1st August, 1984 under Section 10 (i) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Siri Ram, was justified and in order ? If not, to what relief is he entitled ?

According to the demand notice, the workman was appointed on 1st May, 1976 and his services were illegally terminated on 7th November, 1983. He has claimed for reinstatement with full back wages and continuity of service.

In their written statement, the management has denied that there was any industrial dispute as the workman has left his service of his own after submitting his resignation. The claimant has collected his dues in full and final settlement of his claims. Hence he is estopped to claim anything from the respondent-management.

All the facts have been denied in the rejoinder. The reference was contested on the following issues :—

- (1) Whether the workman has left the job on his own accord by submitting his resignation ?
- (2) Whether the workman has estopped his right as he has collected his dues ?
- (3) As per reference ?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues seriatim are as follows :—

*Issues No. 1 and 2 :*

Reliance is placed on Ex. M-2 that the workman has received his dues. Ex. M-2 is not resignation rather it is an application that his accounts be settled. This application is given after the workman sent the demand notice when the dispute was pending between the workman and the management. The workman has settled his dispute for Rs 1,150 and application for this amount is Ex. M-2 and the receipts is Ex. M-3. The workman has denied his thumb impressions on these two documents. These two documents have been proved by MW-1 Shri Moti Lal Sharma and MW-2 Shri Som Nath Aggarwal, Hand writing and fingers print expert Gurgaon and independent witness Shri Damodar Dass Aggarwal, who is also employee of the respondent company. These amounts have been entered in the Account books of the management. The copies of the entries are Ex. M-12 to M-13. The workman has stated that his signatures were obtained on many papers when he was appointed. This is vague statement. I have myself compared the disputed thumb-impression on Ex. M-2 and Ex. M-3 with the thumb-impression of the workman on his application for appointment Ex. M-1 and specimen signatures obtained in the Court and have also gone through the photo of the disputed thumb-impression Ex. M-7 and Ex. M-8. A carefully study of this disputed thumb impression shows that they are ink smurged through these seem to be loop type which given credence that the workman thumb marked on Ex. M-2 and Ex. M-3 and he has received the amount,—vide receipt Ex. M-3. Hence this issue is therefore decided in favour of the management.

*Issue No. 3 :*

The workman has settled the dispute. He is therefore not entitled to be reinstated or re-employed with the respondent-management. But taking into consideration that he has worked with the respondent since 1978 as alleged by the workman as year 1978 is mentioned in his ESI card. I feel that amount of Rs 1,150 given to the workman was a very small amount. I, therefore, give the award that the workman is entitled to recover the amount of Rs 1,150 more from the management.

The award is given accordingly.

Dated the 18th February, 1986.

R. N. SINGAL,

Presiding Officer,  
Labour, Court,  
Faridabad.

Endst. No. 817, dated the 18th March, 1986

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour and Employment, Department, Chandigarh as required under Section 15 of the I. D. Act, 1947.

R. N. SINGAL,

Presiding Officer,  
Labour Court,  
Faridabad.